

Message Text

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ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
----- 106652

R 071900Z APR 76

FM AMEMBASSY KINGSTON

TO SECSTATE WASHDC 710

C O N F I D E N T I A L SECTION 1 OF 3 KINGSTON 1451/1

EXDIS

E.O. 11652: GDS

TAGS: PFOR, EMIN, EINV, US, JM

1. AMBASSADOR AND CECIL HUNT OF OPIC MET TUESDAY MORNING APRIL 6 WITH PAT ROUSSEAU, CHAIRMAN OF BAUXITE COMMISSION, AND COMMISSION MEMBER MAYER MATALON AT MATALON'S RESIDENCE. THE DISCUSSION WAS LIMITED TO REVERE RELATED MATTERS AND LASTED OVER AN HOUR.

2. THE AMBASSADOR LED OFF SAYING THAT IT WAS URGENT THAT WE DISCUSS TOGETHER HOW TO DEAL WITH THE "SICK CHILD" IN THE BAUXITE/ALUMINIUM SCENE IN JAMAICA, I.E. REVERE. HE REFERRED TO THE SITUATION BEING COMPLICATED BY THE FACTOR OF OPIC INSURANCE. HE SAID THAT HE HAD CONFIRMED THROUGH MEETINGS WITH OPIC PRESIDENT MAYS THAT OPIC REALLY DOES FEEL THAT REVERE WOULD PREVAIL IN A CLAIM AGAINST OPIC BECAUSE OF THE TENDENCY OF ARBITRATORS TO RULE IN FAVOR OF THE INSURED COMPANY IN SUCH A CLAIM AGAINST THE GOVERNMENT INSURER. THE AMBASSADOR SAID HE IS FRANKLY TROUBLED BY THIS STATE OF AFFAIRS, PARTICULARLY AS IT WOULD INVOLVE A NEW DEFINITION OF EXPROPRIATION WHICH COULD COMPLICATE INTERGOVERNMENTAL RELATIONS, INCLUDING SUCH POSSIBLE CONSEQUENCES AS IMPOSITION OF SANCTIONS PROVIDED IN U.S. LEGISLATION. HE SAID THAT REVERE MAINTAINED IT HAD NO ALTERNATIVE TO PURSUING ITS CLAIM BECAUSE THE GOJ HAD NEVER RESPONDED TO REVERE'S NOVEMBER 1975 SALE PROPOSAL.

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3. MATALON LED OFF BY EXPRESSING AMAZEMENT THAT OPIC

WOULD HAVE TO PAY COMPENSATION TO REVERE. HE THOUGHT IT EXTRAORDINARY THAT THE CONSEQUENCES MENTIONED SHOULD BE ALLOWED TO FOLLOW FROM THE VAGARIES OF THE ARBITRAL FORUM OPIC PROVIDED FOR IN ITS INSURANCE POLICIES. MATALON AND ROUSSEAU PROCEEDED TO RECOUNT THE VARIOUS SHORTCOMINGS OF REVERE AND ITS JAMAICAN OPERATIONS -- SOME FAMILIAR, SOME NEW. MENTION WAS MADE FOR THE FIRST TIME THAT THE REFINERY AT MAGGOTTY WAS BUILT ON AN EARTHQUAKE FAULT, WHICH PRECLUDES ITS EXPANSION TO THE 600,000 TON FACILITY ORIGINALLY ENVISAGED. (MATALON WAS VAGUE WHEN ASKED WHEN THIS HAD BEEN DISCOVERED BUT SUGGESTED IT WAS A FAIRLY RECENT DISCOVERY IN THE COURSE OF THE TECHNICAL STUDIES.) THEY SAID THE RJA FACILITIES ARE IN A BAD STATE OF DETERIORATION AND DISREPAIR, AND THAT REVERE'S MAINTENANCE PROGRAM IS MOST INADEQUATE. THEY SUGGESTED THAT OPIC MIGHT WANT TO ARRANGE FOR ITS OWN INSPECTION. MATALON LATER IN THE MEETING SAID THAT MORE UNSAVORY HISTORY WOULD COME TO LIGHT IF THE GOJ HAD TO FIGHT A CLAIM BY REVERE. HE SAID THAT DURING EARLIER NEGOTIATIONS HE HAD QUESTIONED A 6 MILLION DOLLAR ITEM IN RJA ACCOUNTS AND THAT MOLOWA HAD ACKNOWLEDGED THAT THIS RELATED TO IRREGULAR PAYMENTS MADE BY REVERE AT THE DIRECTION OF ROBERT LIGHTBOURNE, THE MINISTRY OF TRADE AND INDUSTRY IN THE PREVIOUS GOVERNMENT.

4. MATALON AND ROUSSEAU RETURNED SEVERAL TIMES TO THE THEME THAT REVERE WAS USING ITS OPIC INSURANCE TO EXTRACT ITSELF FROM A DISASTROUS BUSINESS FAILURE. MATALON NOTED THAT ALUMINA PRODUCED AT MAGGOTTY WAS COSTING \$213 AT TON PRIOR TO THE SHUTDOWN AND THAT THE LEVY AMOUNTED, AT THE MOST, TO \$23 A TON. WITH THE MARKET PRICE OF ALUMINA RANGING A LITTLE OVER \$100 A TON, HE ARGUED THAT IT WAS ILLOGICAL TO CITE THE LEVY AS THE CAUSE OF REVERE'S PROBLEMS. MATALON ALSO SAID THAT REVERE SHOULDN'T BE ABLE TO BASE ITS OPIC CLAIM ON THE LEVY BECAUSE REVERE HAD ACCEPTED AND AGREED TO THE LEVY IN THE DECEMBER 1974 HEADS OF AGREEMENT. AS TO THE ASSERTED GOJ FAILURE TO RESPOND

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TO REVERE'S NOVEMBER 1975 SALE OFFER, MATALON STATED THAT HE HAD INDEED RESPONDED AND HAD INDICATED THAT JAMAICA WOULD PAY NO MORE THAN 15 MILLION DOLLARS FOR THE PROPERTIES. WHEN ASKED WHY THE COURT AFFIDAVIT DID NOT INCLUDE THIS, MATALON EXPLAINED IT WAS BECAUSE IT HAD BEEN AN INFORMAL RESPONSE IN A PHONE CONVERSATION WITH MOLOWA.

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ACTION SS-25

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C O N F I D E N T I A L SECTION 2 OF 3 KINGSTON 1451

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5. THE AMBASSADOR ASKED WHETHER THE GOJ ANTICIPATED ANY FURTHER REVERE INVOLVEMENT WITH JAMAICA, EVEN IF ONLY AS A MARKET FOR ALUMINA. MATALON'S REPLY WAS THAT GOJ DID NOT NEED REVERE AS A CUSTOMER AND SIMPLY WANTED TO BE RID OF THEM. FURTHERMORE THE GOJ WOULD NOT CONTEMPLATE ANY NEW ARRANGEMENT WHICH WOULD INVOLVE OPIC, AND THAT IN THE PROPOSED SOUTH-WIRE INVOLVEMENT, OPIC INSURANCE WAS SPECIFICALLY RULED OUT.

6. IN RESPONDING TO QUESTIONS ABOUT THE RECENT TECHNICAL STUDIES RELATING TO THE MAGGOTTY FACILITY AND OTHER EXPANSION PROJECTS, MATALON AND ROUSSEAU EXPRESSED GREAT CONCERN THAT IT NOT BE DISCLOSED THAT SOUTHWIRE IS INVOLVED AS A POTENTIAL INVESTOR AND NOT MERELY AS A TECHNICAL CONSULTANT. SOUTHWIRE AND THE GOJ HAVE CONTRIBUTED \$25,000 EACH TO THE COST OF THE SURVEY WHICH COVERS AN APPRAISAL AND THE CONDITION OF THE EXISTING FACILITIES, TECHNICAL ASPECTS OF AN EXPANSION, AND ECONOMIC FEASIBILITY. THE REPORT SETS THE VALUE OF THE EXISTING FACILITY AT 15 MILLION DOLLARS.

7. MATALON SAID KAISER HAD BEEN APPROACHED ORIGINALLY FOR THE TECHNICAL INPUT NEED TO EXPAND THE REVER PLANT. THE HUNGARIANS WERE ASKED AS WELL. IT TURNED OUT THAT KAISER'S TECHNICAL EXPERTISE WOULD BE THREE TIMES MORE EXPENSIVE THAN THE HUNGARIANS.
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THE GOJ THEREFORE HAS DECIDED TO GO THE HUNGARIAN ROUTE AND INDEED HAS MADE A DEAL WITH THEM. MATALON ADDED THE HUNGARIANS MAY ALSO BECOME INVOLVED IN POSSIBLE FURTHER PLANT EXPANSION ELSEWHERE ON THE ISLAND.

8. HUNT EXPRESSED INTERES IN REVIEWING ALL OR PART OF THE STUDY AS SOON AS POSSIBLE BOTH IN RELATION TO THE QUESTION OF PLANT VALUE AND POSSIBILITIES FOR A NEGOTIATED SETTLEMENT AND FOR DEALING WITH THE ALLEGATIONS OF IMPROPER MAINTENANCE. MATALON AND ROUSSEAU AT FIRST SAID THAT THE REPORT COULD NOT BE MADE AVAILABLE BECAUSE IT WOULDSDISCLOSE SOUTHWIRE'S ROLE AS A POTENTIAL INVESTOR. (THEY NEVER REALLY EXPLAINED WHY THIS SHOULD BE SO SENSITIVE EXCEPT BY A VAGUE REFERENCE TO THE IMPACT ON OTHER CONTRACTUAL RELATIONSHIPS.) WE QUESTIONED WHETHER THE TECHNICAL PORTIONS OF THE REPORT WOULD DISCLOSE SOUTHWIRE'S BUSINESS PLANS. ROUSSEAU SAID THAT IT MIGHT BE POSSIBLE TO SUPPLY AN EDITED REPORT BUT THAT THEY WOULD FIRST HAVE TO CONSULT SOUTHWIRE.

9. AT VARIOUS POINTS IN THE DISCUSSIONS, HUNT COMMENTED ON THE ROLE OF OPIC, ITS VIEW OF THE REVERE CLAIM, AND WHAT OPIC HOPES MIGHT BE ACHIEVED THROUGH NEGOTIATIONS. HE CHALLENGED THE NOTION THAT THE REVERE PROBLEM EXISTS OR IS COMPLICATED BY OPIC INSURANCE. HE NOTED THAT OPIC WITH OVER 400 MILLION DOLLARS COVERAGE OF ALUMINUM COMPANY INVESTMENT IN JAMAICA HAD WATCHED THE BAUXITE LEVY NEGOTIATIONS AS WELL AS SUBSEQUENT NEGOTIATIONS ON NON-REVENUE ISSUES FROM THE SIDLINES UNTIL RECENT MONTHS WHEN IT APPEARED THAT THE PROCESS OF NEGOTIATION OF AMICABLE SETTLEMENTS WAS NOT WORKING IN THE CASE OF REVERE. HE NOTED THAT THERE HAS NEVER BEEN RESORT TO INTERGOVERNMENTAL ARBITRATION, ALTHOUGH THE INVESTMENT INSURANCE PROGRAMS HAVE OPERATED FOR MANY YEARS AROUND THE WORLD UNDER INTERGOVERNMENTAL AGREEMENTS PROVIDING FOR INTERNATIONAL ARBITRATION OF DISPUTES.

10. HUNT OUTLINED THE BSIC ELEMENTS OF THE CLAIM REVERE
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WOULD ASSERT: THE LEVY WAS AN ILLEGAL BREACH OF REVERE'S CONCESSION AGREEMENT; THE IMPACT OF THE LEVY WAS SIGNI-

FICANT IN AND OF ITSELF; AND THE JAMAICAN ACTIONS (INCLUDING THE LEVY) MADE IT IMPOSSIBLE FOR REVERE TO PROCEED WITH THE EXPANSION PLANS WHICH WERE ESSENTIAL TO ECONOMIC OPERATIONS. HUNT EXPLAINED THAT THE INSURANCE CONTRACT PROVIDES FOR A LUMP SUM PAYMENT IN CASE, LESS COMPENSATION RECEIVED BY THE INSURED IN CASH FROM OTHER SOURCES, AND THAT THE LEVEL OF INVESTMENT COVERAGE WOULD NOT BE REDUCED BY REVERE'S OPERATING LOSSES SUBSEQUENT TO THE IMPOSITION OF THE LEVY. IT COULD THUS BE AS MUCH AS ITS \$66 MILLION MAY 1974 COVERAGE LEVEL.

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C O N F I D E N T I A L SECTION 3 OF 3 KINGSTON 1451/3

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11. MATALON REPEATEDLY REMARKED THAT IF REVERE'S PRICE TAG WAS 65 MILLION DOLLARS OR EVEN THE 50 MILLION DOLLARS THAT HAD BEEN MENTIONED, THERE WAS NO POINT IN PURSUING NEGOTIATIONS WITH THEM. AFTER REPEATEDLY REFERRING TO THE 15 MILLION DOLLAR FIGURE AS HAVING BEEN CONFIRMED BY THE TECHNICAL STUDY, MATALON REFERRED TO 20 MILLION DOLLARS AS AN ABSOLUTE LIMIT OF WHAT JAMAICA MIGHT PAY IN ORDER TO RESOLVE THE MESS. HE REFERRED TO THE POSSIBILITY THAT THE NOMINAL PRICE TAG MIGHT BE INCREASED WITH A DEFERRED PAYMENT PACKAGE, THE PRESENT DISCOUNTED VALUE OF WHICH WOULD BE 20 MILLION DOLLARS.

12. THE AMBASSADOR AND HUNT RETURNED TO THE THEME THAT THERE STILL HAD NOT BEEN A SERIOUS APPROACH TO SALES NEGOTIATIONS EVIDENCED BY JAMAICA BUT THAT THE RECENT STUDIES PLUS THE INVOLVEMENT OF SOUTHWIRE PROVIDED AN OPPORTUNITY FOR BUSINESSLIKE NEGOTIATIONS. REVERE COULD

NOT BE EXPECTED TO CONCEDE ANYTHING FROM ITS CLAIM IF ALL THEY HAD TO PURSUE WAS AN INFORMAL 15 OR 20 MILLION DOLLAR FIGURE ON THE JAMAICAN SIDE, A FIGURE WHICH APPEARS TO BEAR NO RELATIONSHIP TO THE COST OF BUILDING A COMPARABLE FACILITY. IF OPIC FINDS THE TECHNICAL STUDIES SUBSTANTIATE A PLANT VALUE LESS THAN REVERE'S CLAIM AMOUNT, THIS CAN HELP PRODUCE WILLINGNESS ON THE PART OF REVERE TO COMPROMISE ITS CLAIM.

13. MATALON ASKED WHAT SPECIFICALLY THE GOJ IS BEING ASKED TO DO. OUR RESPONSE WAS (A) TAKE ACTION TO GIVE
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REVERE RELIEF FROM THE APRIL 15 INSTALLMENT DATE TO IMPROVE THE ATMOSPHERE FOR NEGOTIATIONS; (B) COOPERATE WITH OPIC BY GIVING DETAILED INFORMATION THAT WOULD SUBSTANTIATE THE ALLEGATIONS MADE BY THE GOJ; AND (C) MAKE THE SOUTHWIRE REPORT AVAILABLE. AS TO THE APRIL 15 LEVY INSTALLMENT, MATALON SAID HE WOULD HAVE TO TAKE THIS UP WITH THE GOVERNMENT. HE INDICATED WILLINGNESS TO COOPERATE WITH OPIC IN FACT-FINDING, BUT SAID THAT A RESPONSE ON THE RELEASE OF THE SOUTHWIRE REPORT COULD NOT BE GIVEN BEFORE THE END OF APRIL FOLLOWING THE NEXT GOJ-SOUTHWIRE MEETING.

14. COMMENT: THE EMBASSY WILL FOLLOW UP WITH MATALON ON RELIEF FOR REVERE FROM THE PAYMENT DUE APRIL 15. IF GRANTED, IT SHOULD IMPROVE ATMOSPHERE, BUT GIVEN THE INTRANSIGENCE OF BOTH PARTIES AND THE GOJ'S LOW REGARD, EVEN CONTEMPT FOR REVERE'S SENIOR OFFICERS, WHICH IS RECIPROCATED BY REVERE, WE DO NOT FORESEE ANY SUCCESSFUL RESULT COMING OUT OF DIRECT NEGOTIATIONS BETWEEN THE PARTIES IN JAMAICA AT THIS TIME. AS GOOD OFFICES ROLES BY THE DEPARTMENT AND OPIC IN WASHINGTON NOW WOULD APPEAR BEST COURSE AVAILABLE TO REESTABLISH THE NEGOTIATING PROCESS.
GERARD

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